2013 WL 5610181 (Ill.Cir.Ct.) (Trial Pleading)
Circuit Court of Illinois.
County Department
Chancery Division
Cook County

Edward HERBA, Plaintiff,
v.
Peter S. HERMAN, Individually and as Agent for Herman Financial Services Corporation, an Illinois Corp., and as Agent for the Collegian Group, Inc. an Illinois Corp., d/b/a Collegian Financial Group, Richard Biondi, Potomac Insurance Marketing Group, Inc., a foreign corporation, and Crump Life Insurance Services, Inc., a foreign corporation, Defendants.

No. 2013-CH-22297.
September 30, 2013.

Complaint

Attorney for Plaintiff, Nicholas A. Caputo (6276248), Caputo Law Firm, P.C. (Cook #49711), 901 W. Jackson Blvd., Suite 301, Chicago, IL 60607, (312) 253-0527 (tel.), (888) 463-5405 (fax).

Plaintiff, EDWARD HERBA by and through his attorneys, Caputo Law Firm, P.C., and for his Complaint against Defendants, PETER S. HERMAN, Individually and as Agent for HERMAN FINANCIAL SERVICES CORPORATION, an Illinois Corp., and as Agent for THE COLLEGIAN GROUP, INC., an Illinois Corp., d/b/a COLLEGIAN FINANCIAL GROUP, RICHARD BIONDI, and POTOMAC INSURANCE MARKETING GROUP, INC., a foreign corporation, and CRUMP LIFE INSURANCE SERVICES, INC., a foreign corporation, states as follows:

FACTS COMMON TO ALL COUNTS

Overview

1. This case arises out of a plan to convince **elderly** persons, including the Plaintiff in this case, to allow life insurance policies to be issued on their lives for the benefit of others.

2. The **elderly** persons are told that they would have to pay no premiums or premiums for only a short period of time until one or more of the life insurance policies could be sold at a profit sufficient to fund the premiums for a remaining policy.

3. Unbeknownst to the **elderly** persons, as soon as the life insurance policies are put into force, hundreds of thousands of dollars in commissions are paid out to the insurance agents, wholesalers, distributors, and other individuals involved in the scheme.

4. According to the Illinois Department of Financial and Professional Regulation, these arrangements are referred to as Stranger Originated Life Insurance (STOLI) in that an investor group—strangers—initiate the insured's application and will likely acquire an interest in the life (and possibly profit from the death) of a participant. These arrangements are also referred to as “zero premium life insurance,” “estate maximization plans,” “no costs to the insured plans,” or non-recourse premium finance transactions.”

5. In this case, an **elderly** man named Edward Herba was convinced into allowing approximately two million dollars ($2,000,000.00) of life insurance policies to be put into force on his life.

The Parties & Jurisdiction

6. Plaintiff Edward Herba is 80 years of age and is an Illinois resident, domiciled in the County of Cook, Illinois. Edward Herba is considered **elderly** under Illinois law.

7. Defendant Peter S. Herman, is an Illinois resident and citizen, and at all times relevant herein, was a licensed insurance broker/agent in the State of Illinois.

8. Defendant Peter S. Herman does business as Herman Financial Services, with his principal place of business at 1595 Little John Ct., Highland Park, Lake County, Illinois. Herman Financial Services transacts business in Cook County, Illinois.

9. At all times relevant, Peter S. Herman was an officer, agent and employee of Herman Financial Services.

10. Defendant Peter S. Herman also does business as Collegian Group, Inc., with his principal place of business at 75 Tri State Intl., # 180, Lincolnshire, Lake County, Illinois. Collegian Group, Inc. transacts business in Cook County, Illinois.

11. At all relevant times, Peter S. Herman was an officer, agent and employee of Collegian Group, Inc.

12. Collegian Financial Group, Inc. holds itself out as providing financial services and innovative solutions for retirement planning.

13. Peter S. Herman, Herman Financial Services, Collegian Group, Inc., and Collegian Financial Group, Inc. are hereinafter collectively referred to as "Herman Defendants."

14. Defendant Richard Biondi (hereinafter "Biondi") is an Illinois resident and is an attorney licensed to practice law in the state of Illinois.

15. Defendant Potomac Insurance Marketing Group, Inc. (hereinafter "Potomac") is a Maryland Corporation doing business in Illinois. Potomac is a subsidiary of Crump Life Services, Inc.

16. Defendant Crump Life Services, Inc. (hereinafter "Crump") is a foreign corporation registered to do business in Illinois.

The Insurance Policies

17. Life settlements, also called "viatical settlements," gained popularity in the 1980s due to the AIDS epidemic. Essentially, investors were willing to purchase a life insurance policy from someone with a terminal illness for an amount significantly less than the face amount of the policy. After the purchase, the investor would continue to make the premiums payments due to the insurance carrier and hope that death would occur before the amount of premium payments exceeded the face amount of the policy and the amount that the investor paid for it.

18. The Herman Defendants had provided financial advice to the Plaintiff since approximately 2005, when the Plaintiff purchased annuities with the advice and assistance of the Herman Defendants.

19. In early 2008, the Herman Defendants, through Peter S. Herman, approached the Plaintiff about a life settlement plan.

20. The Herman Defendants explained to the Plaintiff that the plan would involve taking two life insurance policies with a high face value on the life of the Plaintiff.

21. The premium payments on these policies would be financed by a loan arranged by the Herman Defendants.

22. The Herman Defendants promised that one of these policies would be sold on a secondary market for life insurance policies and the proceeds of that policy would be used to pay for the premiums of the other policy.

23. As explained to the Plaintiff, this plan would allow the Plaintiff to have the benefit of a high face value life insurance policy with paying little to no premiums to support the policy.

24. The Herman Defendants indicated that they had a buyer in Florida ready to purchase life insurance policies, but never released any additional information about the buyer in Florida to the Plaintiff.

25. Based on the Herman Defendans' advice, Plaintiff agreed to the life insurance plan.

26. In early 2008, the Herman Defendants retained Potomac Insurance Marketing Group, Inc., at all relevant times a subsidiary of Crump Life Insurance Services, Inc., to assist in the application and placement of life insurance policies with Principal Life Insurance.

27. On April 4, 2008, Potomac submitted an initial application to Principal Life Insurance to initiate the policy placement process.

28. That application and subsequent communication from Potomac to Principal Life Insurance indicated that there would be no financing of life insurance premiums on the policy and that no investors would obtain an interest in the life insurance policy.

29. On May 27, 2008, an underwriter for Principal Life Insurance policy indicated that the Plaintiff's financial statements would not support the requested policy face value of $2 million.

30. An updated policy application named Peter S. Herman as the agent for the life insurance policy.

31. As the agent for the policy, Herman stood to gain significant commissions for the placement of the policy.

32. On June 6, 2008, an updated financial statement for the Plaintiff was submitted which inflated the Plaintiff's income and added approximately $500,000 in real estate and personal property.

33. Principal Life Insurance issued a life insurance policy on the life of the Plaintiff for a face value of $2 million in July 2008.

34. Subsequent to the placement of this initial policy, the Herman Defendants and Potomac sought the placement of a second life insurance policy on the life of Plaintiff.

35. This second policy was to be owned and controlled by a trust set up by an attorney, Richard Biondi.

36. On or about December 2008, the Herman Defendants arranged for a loan from a third party, Heather Campbell.

37. The loan funds were meant to pay the initial premiums on the policies until one of the policies could be sold.

38. On December 15, 2008, the Herman Defendants submitted documentation to Principal Life to assign the ownership of the initial life insurance policy to Heather Campbell.

39. Since the policies were placed, the Plaintiff has been asked to make premium payments on the life insurance policies.

40. Plaintiff continued to make those premiums payments using his personal funds and by incurring debt on his credit cards.

41. On or about September 2011, the Plaintiff received a phone call from Richard Biondi.

42. During that phone call, Richard Biondi insisted that Herba continue to make premium payments on the policies.

43. On the same day, Herba received another phone call from Peter S. Herman.

44. Herman also insisted that Herba continue to make policy premium payments.

45. Since 2008, the Plaintiff has paid substantial sums of money and has incurred credit card debt to make policy premium payments as directed by the Herman Defendants and Biondi.

46. On information and belief, neither the Herman Defendants nor Biondi made any arrangements to sell any of the policies on a secondary market.

47. Neither of the life insurance policies were sold on a secondary market and both policies lapsed.

48. On information and belief, the policies' high premium payments but low face value were such that they were not reasonably likely to be sold on a secondary market.

49. Even if the policies could have been sold on a secondary market, such a sale would render the policies as stranger oriented life insurance policies and, therefore, were subject to rescission by their insurer.

50. The Defendants failed to inform or advise the Plaintiff of the unlikelihood of selling the policies on the secondary market or the consequences of selling the policies on the secondary market and the possibility of rescission of the policies.

51. On information and belief, the Defendants earned significant commissions for the placement of the policies.

COUNT 1 - NEGLIGENCE

Peter S. Herman, Herman Financial Services Corporation, Collegian Group, Inc. d/b/a Collegian Financial Group

1-51. Plaintiff adopts and realleges Paragraphs 1 through 51 of the Facts Common to All Counts as though fully set forth herein.

52. At all times relevant, Defendant Peter S. Herman acted both individually and as the agent, employee, and officer of Herman Financial Services Corporation and Collegian Group, Inc. d/b/a Collegian Financial Group.

53. The Herman Defendants were in the business of supplying information related to life insurance policies and other financial instruments to their clients.

54. It was the duty of the Herman Defendants to exercise reasonable skill and care in the transaction of the business entrusted to him by Plaintiff, to wit, to exercise reasonable skill and care in informing Plaintiff of the terms, conditions, premium outlays, death benefits, risks, suitability, potential adverse consequences, and duration of coverage, to procure the life insurance policies promised and recommended to Plaintiff and procured by Defendant on behalf of and for the benefit of the Plaintiff.

55. The Herman Defendants breached their duty to Plaintiff in one or more of the following acts or omissions:
a. By negligently failing procure life insurance policies that would be fully funded by financing such that Plaintiff would not incur any out of pocket costs;

b. By negligently failing to procure funding in a manner such that the Plaintiff would not incur any out of pocket costs;

c. By negligently failing to make the appropriate arrangements for one or more of the policies to be sold;

d. By negligently advising the Plaintiff to take on additional loans in order to pay the premiums on the life insurance policies;

e. By negligently recommending to Plaintiff that the life insurance policies could be sold on the secondary market;

f. By negligently failing to advise Plaintiff that the life insurance policies had no value on the secondary market;

g. By failing to investigate and evaluate the feasibility of the life settlement scheme;

h. By negligently recommending that Plaintiff utilize the service of the other Defendants, including, but not limited to Richard Biondi;

i. By negligently failing to properly advise the Plaintiff of the risks associated with the proposed purchase and sale of life insurance;

j. By negligently failing to discover or disclose conflicts of interest of the other Defendants that this Defendant associated with and/or recommended;

k. By negligently preparing an application for life insurance on behalf of the Plaintiff that contained inaccuracies and omissions;

1. By negligently advising Plaintiff of the status of proposed sale of the life insurance policies;

m. By negligently failing to disclose to Plaintiff the financial incentives of each of the Defendants involved in this transaction;

n. By negligently allowing the life insurance policies to lapse.

56. As a direct and proximate result of the foregoing acts and omissions, Plaintiff has suffered damage in the form money spent to make premium payments, incurring debts to make premium payments, being deprived of the benefits of that life insurance coverage promised, and suffering other consequential damages and, therefore, have suffered monetary damages exceeding $50,000.

WHEREFORE, Plaintiff prays that this Court enter judgment in favor of Plaintiff and against Defendants in an amount in excess of $50,000 plus costs and attorney's fees, together with such other relief as this Court deems just.

COUNT 2 - NEGLIGENT MISREPRESENTATION

Peter S. Herman, Herman Financial Services Corporation, Collegian Group, Inc. d/b/a Collegian Financial Group

1-51. Plaintiff adopts and realleges Paragraphs 1 through 51 of the Facts Common to All Counts as though fully set forth herein.

52. At all times relevant, Defendant Peter S. Herman acted both individually and as the agent, employee, and officer of Herman Financial Services Corporation and the Collegian Group, Inc. d/b/a Collegian Financial Group.

53. The Herman Defendants were in the business of supplying information related to life insurance policies and other financial instruments to their clients.

54. It was the duty of the Herman Defendants to exercise reasonable skill and care in the transaction of the business entrusted to him by Plaintiff, to wit, to exercise reasonable skill and care in informing Plaintiff of the terms, conditions, premium outlays, death benefits, risks, suitability, potential adverse consequences, and duration of coverage, to procure the life insurance policies promised and recommended to Plaintiff and procured by Defendants on behalf of and for the benefit of the Plaintiff.

55. Defendants, Peter S. Herman and Herman Financial Services Corporation, and the Collegian Group, Inc. breached their duty to Plaintiff in one or more of the following acts or omissions:
a. By negligently misrepresenting that he would procure life insurance policies that would be fully funded by financing such that Plaintiff would not incur any out of pocket costs;

b. By negligently failing to advise Plaintiff, that the insurance policies procured had little or no value on the secondary market and therefore, were unlikely to ever be sold;

c. By negligently misrepresenting through conversations that Plaintiff would be refunded all premium payments made by Plaintiff;

d. By negligently misrepresenting that arrangements would be made for one or more of the policies to be sold.

56. As a direct and proximate result of the foregoing acts and omissions, Plaintiff has suffered damage in the form money spent to make premium payments, incurring debts to make premium payments, being deprived of the benefits of that life insurance coverage promised, and suffering other consequential damages and, therefore, have suffered monetary damages exceeding $50,000.

WHEREFORE, Plaintiff prays that this Court enter judgment in favor of Plaintiff and against Defendants in an amount in excess of $50,000 plus costs and attorney's fees, together with such other relief as this Court deems just.

COUNT 3 - BREACH OF FIDUCIARY DUTY

Peter S. Herman, Herman Financial Services Corporation, Collegian Group, Inc. d/b/a Collegian Financial Group

1-51. Plaintiff adopts and realleges Paragraphs 1 through 51 of the Facts Common to All Counts as though fully set forth herein.

52. At all times relevant, Defendant Peter S. Herman acted both individually and as the agent, employee, and officer of Herman Financial Services Corporation and Collegian Group, Inc. d/b/a Collegian Financial Group.

53. The Herman Defendants were bound by a fiduciary duty to disclose all material terms, conditions, premium outlays, death benefits, risks, suitability, potential adverse consequences, and duration of coverage of the life insurance scheme proposed by the Defendants, and to procure such life insurance policies according to the representations made by Defendants to the Plaintiff.

54. The Herman Defendants breached their fiduciary duty to Plaintiff, by misrepresenting the nature, terms and conditions, and risks of the life insurance scheme proposed by the Defendants.

55. But for the misrepresentations made by the Herman Defendants, Plaintiff would not have purchased the life insurance policies procured by Defendants and would not have expended funds and incurred debts in order to pay the premiums for those policies.

56. As a direct and proximate result of the foregoing acts and omissions, Plaintiff has suffered damage in the form money spent to make premium payments, incurring debts to make premium payments, being deprived of the benefits of that life insurance coverage promised, and suffering other consequential damages and, therefore, have suffered monetary damages exceeding $50,000.

WHEREFORE, Plaintiff prays that this Court enter judgment in favor of Plaintiff and against Defendants in an amount in excess of $50,000 plus costs and attorney's fees, together with such other relief as this Court deems just.

COUNT 4 - CONSTRUCTIVE TRUST / ACCOUNTING

Peter S. Herman, Herman Financial Services Corporation, Collegian Group, Inc. d/b/a Collegian Financial Group

1-51. Plaintiff adopts and realleges Paragraphs 1 through 51 of the Facts Common to All Counts as though fully set forth herein. Plaintiff also adopts and realleges Counts 1, 2, and 3 as though fully set forth herein.

52. The Herman Defendants have received large sums of monies including substantial commissions from the placement of the loans and/or life insurance policies.

53. The Herman Defendants have never provided Plaintiff with an accounting of the sums received by them.

54. It will be inequitable for the Herman Defendants to retain any money received from their wrongful conduct.

WHEREFORE the Plaintiff prays this honorable court impose a constructive trust on all sums received by Defendants through their dealings with Plaintiff, plus order a full, accurate and complete accounting of all such sums together with such other relief as this Court deems just.

COUNT 5 - VIOLATION OF THE ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT

Peter S. Herman, Herman Financial Services Corporation, Collegian Group, Inc. d/b/a Collegian Financial Group

1-51 Plaintiff adopts and realleges Paragraphs 1 through 51 of the Facts Common to All Counts as though fully set forth herein.

52. At all times relevant, Defendant Peter S. Herman acted both individually and as the agent, employee, and officer of Herman Financial Services Corporation and Collegian Group, Inc. d/b/a Collegian Financial Group.

53. It was the duty of the Herman Defendants to exercise reasonable skill and care in the transaction of the business entrusted to him by Plaintiff, to wit, to exercise reasonable skill and care in informing Plaintiff of the terms, conditions, premium outlays, death benefits, risks, suitability, potential adverse consequences, and duration of coverage, to procure the life insurance policies promised and recommended to Plaintiff and procured by Defendants on behalf of and for the benefit of the Plaintiff.

54. Defendants, Peter S. Herman and Herman Financial Services Corporation, and the Collegian Group, Inc. breached their duty to Plaintiff in one or more of the following acts or omissions:

a. By negligently misrepresenting that he would procure life insurance policies that would be fully funded by financing such that Plaintiff would not incur any out of pocket costs;

b. By negligently failing to advise Plaintiff, that the insurance policies procured had little or no value on the secondary market and therefore, were unlikely to ever be sold;

c. By negligently misrepresenting through conversations that Plaintiff would be refunded all premium payments made by Plaintiff;

d. By negligently misrepresenting that arrangements would be made for one or more of the policies to be sold.

54. The representations made by the Herman Defendants to the Plaintiff were for the purpose of inducing the Plaintiff to allow Defendants to procure life insurance policies such that Defendants could earn commissions.

55. The Herman Defendants knew or should have known that the representations were designed, in part, to assure Plaintiff that he would not be required to pay any money out of pocket.

56. In making the representations, the Herman Defendants intended that the Plaintiff rely on the representations.

57. Plaintiff heard and relied on the representations made by the Herman Defendants.

58. At all relevant times, there has been in effect in the State of Illinois a certain statute known as the Illinois Consumer Fraud and Deceptive Business Practices Act, set forth at 815 ILCS 505/2, which provides, in pertinent part, as follows:

> "Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of such material fact with intent that others rely upon the concealment, suppression or omission of such material fact... in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby..."

59. By making the above representations, the Herman Defendants violated the Illinois Consumer Fraud and Deceptive Practices Act.

60. At all relevant times, it was reasonably foreseeable that Plaintiff would rely on the representations set forth above in deciding to purchase life insurance.

61. Plaintiff relied on the representations made by the Herman Defendants and these representations induced the Plaintiffs to purchase life insurance policies.

62. The above-stated misrepresentations and omissions were material facts and had Plaintiff been aware of such facts, he would not have purchased life insurance policies and would not have obligated himself to pay large sums of money to pay for life insurance policy premiums.

63. As a direct and proximate result of the foregoing acts and omissions, Plaintiff has suffered damage in the form money spent to make premium payments, incurring debts to make premium payments, being deprived of the benefits of that life insurance coverage promised, and suffering other consequential damages and, therefore, have suffered monetary damages exceeding $50,000.

WHEREFORE, Plaintiff prays that this Court enter judgment in favor of Plaintiff and against Defendants in an amount in excess of $50,000 plus costs and attorney's fees, together with such other relief as this Court deems just.

COUNT 6 - NEGLIGENCE

Richard Biondi

1-51. Plaintiff adopts and realleges Paragraphs 1 through 51 of the Facts Common to All Counts as though fully set forth herein.

52. It was the duty of the Defendant Richard Biondi to exercise reasonable skill and care in the transaction of the business entrusted to him by Plaintiff, to wit, to exercise reasonable kill and care in informing Plaintiff of the terms, conditions, premium outlays, death benefits, risks, suitability, potential adverse consequences, status of assets and liabilities of the trusts, the ikelihood of any sale of the life insurance policies, the propriety of signing loan documents, the propriety of purchasing life insurance for sale on the secondary market, and duration of overage, to sell one or more of the life insurance policies as promised and recommended to Plaintiff.

53. Biondi breached his duty to Plaintiff in one or more of the following acts or omissions:
a. Failing to disclose to the Plaintiff the Defendant's relationship to persons and entities that had financial interests in commissions and monies generated by the establishment of the life insurance policies;

b. Failing to discuss with Plaintiff his legal interests and concerns;

c. Failing to disclose to Plaintiff any disbursements that were made;

d. Failing to establish a Trust that required disclosure to Plaintiff of all receipts and disbursements;

e. Failing to advise the Plaintiff that they could have selected an independent Trustee free from any conflicts of interest;

f. Failing to make required premium payments for life insurance policies;

g. Failing to safeguard funds paid by the Plaintiff to the Trust;

h. Failing to inform or advise the Plaintiff on the structure, operation, and consequences of any trusts formed to hold life insurance policies taken on the life of the Plaintiff;

i. Making disbursements that were not in the best interests of the Plaintiff or the trust;

j. Advising and/or allowing the trust to invest in a life settlement scheme;

k. Failing to conduct due diligence before recommending a Trust vehicle;

1. Concealing the receipt of upfront fees and commissions received by each of the Defendants;

m. Failing to meet and discuss with the Plaintiff their legal needs, concerns, and goals;

n. Failing to advise the Plaintiff that the life settlement transaction was not sound;

o. Failing to protect the legal and financial interests of the Plaintiff from financial exploitation and **elder** **abuse**;

p. Failing to advise the Plaintiff that they should consult with another professional who could adequately protect their legal and/or financial interests;

q. Taking directives from the Herman Defendants and other Defendants that were not in the legal or financial best interests of the Plaintiff.

54. As a direct and proximate result of the foregoing acts and omissions, Plaintiff has suffered damage in the form money spent to make premium payments, incurring debts to make premium payments, being deprived of the benefits of that life insurance coverage promised, and suffering other consequential damages and, therefore, have suffered monetary damages exceeding $50,000.

WHEREFORE, Plaintiff prays that this Court enter judgment in favor of Plaintiff and against Defendants in an amount in excess of $50,000 plus costs and attorney's fees, together with such other relief as this Court deems just.

COUNT 7 - BREACH OF FIDUCIARY DUTY

Richard Biondi

1-51. Plaintiff adopts and realleges Paragraphs 1 through 51 of the Facts Common to All Counts as though fully set forth herein.

52. Defendant Richard Biondi as Plaintiff's attorney had a fiduciary relationship, as a matter of law, with the Plaintiff.

53. Biondi, as a Trustee of Plaintiff' trust, had a fiduciary relationship, as a matter of law, with the Plaintiff.

54. The Plaintiff reposed trust and confidence in Biondi.

55, The fiduciary duties imposed on Biondi were those of due care, good faith, full and fair disclosure, candor, loyalty, and freedom from conflicts.

56. Biondi owed a duty to Plaintiff and the Trust to disclose all material facts regarding the life insurance policy scheme truthfully and without material misrepresentations or omissions.

57. Biondi breached his fiduciary duty and exploited the trust and confidence reposed in him by the Plaintiff by:
a. Failing to disclose to Plaintiff disbursements that were made or were to be made;

b. Failing to establish a Trust that required disclosure to Plaintiff of all receipts and disbursements;

c. Failing to safeguard funds paid by the Plaintiff to the Trust;

d. Making disbursements that were not in the best interests of the Plaintiff or the Trust;

e. Concealing the receipt of upfront fees and commissions received by each of the Defendants;

f. Failing to maintain proper records and books and producing them when requested;

g. Failing to inform Plaintiff that Defendant's business associates had a vested interest in seeing the policies purchased and premiums made;

h. Failing to inform the Plaintiff that the life settlement would not likely succeed and that continuing to fund the life settlement was unsound.

58. As a direct and proximate result of the foregoing acts and omissions, Plaintiff has suffered damage in the form money spent to make premium payments, incurring debts to make premium payments, being deprived of the benefits of that life insurance coverage promised, and suffering other consequential damages and, therefore, have suffered monetary damages exceeding $50,000.

WHEREFORE, Plaintiff prays that this Court enter judgment in favor of Plaintiff and against Defendants in an amount in excess of $50,000 plus costs and attorney's fees, together with such other relief as this Court deems just.

COUNT 8 - FRAUDULENT OMISSION AND CONCEALMENT

Richard Biondi

1-51. Plaintiff adopts and realleges Paragraphs 1 through 51 of the Facts Common to All Counts as though fully set forth herein.

52. The Plaintiff entrusted the Defendant Richard Biondi to act as Plaintiff' attorney and trustee of Plaintiff trusts.

53. As Plaintiff' attorney, Biondi had, as a matter of law, a fiduciary relationship with the Plaintiff.

54. As a fiduciary, Biondi had the highest duties of candor and full disclosure.

55. Biondi breached these duties by concealing the following material facts from the Plaintiff:
a. That the life insurance policies procured by Defendants had little to no value on the secondary market;

b. That Defendants would make material misrepresentations to Principal Life Insurance Co., or other life insurance companies, during the application of the policy, making the policies vulnerable to rescission;

c. That Defendants could not sell the Plaintiff' life insurance policies on the secondary market;

d. That Defendants had prior agreements to receive large sums of money based on their participation in the life settlement scheme.

56. The above enumerated concealments were material facts intentionally kept from the Plaintiff in order to defraud them out of their substantial assets.

57. Had Biondi disclosed these facts to Plaintiff, Plaintiff would not have entrusted his business to Biondi, purchased the two life insurance policies, or taken out loans and other credit as urged by the other Defendants.

58. Biondi concealed the above enumerated material facts with the intent of defrauding the Plaintiff out of their substantial assets.

59. Plaintiff reasonably relied upon Biondi to disclose all material facts to them.

60. As a direct and proximate result of the foregoing acts and omissions, Plaintiff has suffered damage in the form money spent to make premium payments, incurring debts to make premium payments, being deprived of the benefits of that life insurance coverage promised, and suffering other consequential damages and, therefore, have suffered monetary damages exceeding $50,000.

WHEREFORE, Plaintiff prays that this Court enter judgment in favor of Plaintiff and against Defendants in an amount in excess of $50,000 plus costs and attorney's fees, together with such other relief as this Court deems just.

COUNT 9 - CONSTRUCTIVE TRUST / ACCOUNTING

Richard Biondi

1-51. Plaintiff adopts and realleges Paragraphs 1 through 51 of the Facts Common to All Counts as though fully set forth herein. Plaintiff also adopts and realleges Counts 6, 7, and 8 as though fully set forth herein.

52. Richard Biondi is believed to have shared large sums of monies including substantial commissions from the placement of the loans and/or life insurance policies.

53. Richard Biondi has never provided Plaintiff with an accounting of the sums received by him.

54. It will be inequitable for Richard Biondi to retain any money received from his wrongful conduct.

WHEREFORE the Plaintiff prays that this honorable court impose a constructive trust on all sums received by Defendants through their dealings with Plaintiff, plus order a full, accurate and complete accounting of all such sums together with such other relief as this Court deems just.

COUNT 10 - VIOLATION OF THE ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT

Richard Biondi

1-51 Plaintiff adopts and realleges Paragraphs 1 through 51 of the Facts Common to All Counts as though fully set forth herein.

55. It was the duty of Biondi to exercise reasonable skill and care in the transaction of the business entrusted to him by Plaintiff, to wit, to exercise reasonable skill and care in informing Plaintiff of the terms, conditions, premium outlays, death benefits, risks, suitability, potential adverse consequences, and duration of coverage, to procure the life insurance policies promised and recommended to Plaintiff and procured by Defendants on behalf of and for the benefit of the Plaintiff.

56. Biondi breached his duty to Plaintiff in one or more of the following acts or omissions:
a. By negligently misrepresenting that he would procure life insurance policies that would be fully funded by financing such that Plaintiff would not incur any out of pocket costs;

b. By negligently failing to advise Plaintiff, that the insurance policies procured had little or no value on the secondary market and therefore, were unlikely to ever be sold;

c. By negligently misrepresenting through conversations that Plaintiff would be refunded all premium payments made by Plaintiff;

d. By negligently misrepresenting that arrangements would be made for one or more of the policies to be sold;

e. By negligently misrepresenting that the documents prepared by Biondi were sufficient to protect the Plaintiff's interests.

64. The representations made by Biondi to the Plaintiff were for the purpose of inducing the Plaintiff to allow Defendants to procure life insurance policies such that Defendants could earn commissions.

65. Biondi knew or should have known that the representations were designed, in part, to assure Plaintiff that he would not be required to pay any money out of pocket.

66. In making the representations, Biondi intended that the Plaintiff rely on the representations.

67. Plaintiff heard and relied on the representations made by Biondi.

68. At all relevant times, there has been in effect in the State of Illinois a certain statute known as the Illinois Consumer Fraud and Deceptive Business Practices Act, set forth at 815 ILCS 505/2, which provides, in pertinent part, as follows:

> "Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of such material fact with intent that others rely upon the concealment, suppression or omission of such material fact... in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby ... ."

69. By making the above representations, Biondi violated the Illinois Consumer Fraud and Deceptive Practices Act.

70. At all relevant times, it was reasonably foreseeable that Plaintiff would rely on the representations set forth above in deciding to purchase life insurance.

71. Plaintiff relied on the representations made by Biondi and these representations induced the Plaintiffs to purchase life insurance policies.

72. The above-stated misrepresentations and omissions were material facts and had Plaintiff been aware of such facts, he would not have purchased life insurance policies and would not have obligated himself to pay large sums of money to pay for life insurance policy premiums.

73. As a direct and proximate result of the foregoing acts and omissions, Plaintiff has suffered damage in the form money spent to make premium payments, incurring debts to make premium payments, being deprived of the benefits of that life insurance coverage promised, and suffering other consequential damages and, therefore, have suffered monetary damages exceeding $50,000.

WHEREFORE, Plaintiff prays that this Court enter judgment in favor of Plaintiff and against Defendants in an amount in excess of $50,000 plus costs and attorneys fees, together with such other relief as this Court deems just.

COUNT 11- NEGLIGENCE

Potomac Insurance Marketing Group, Inc. and Crump Life Insurance Services, Inc.

1-51. Plaintiff adopts and realleges Paragraphs 1 through 51 of the Facts Common to All Counts as though fully set forth herein.

52. Potomac and Crump were in the business of supplying information related to life insurance policies and other financial instruments to their clients.

53. It was the duty of Potomac and Crump to exercise reasonable skill and care in the transaction of the business entrusted to him by Plaintiff, to wit, to exercise reasonable skill and care in informing Plaintiff of the terms, conditions, premium outlays, death benefits, risks, suitability, potential adverse consequences, and duration of coverage, and to procure the life insurance policies promised and recommended to Plaintiff and procured by Defendant on behalf of and for the benefit of the Plaintiff.

54. Potomac and Crump breached their duty to Plaintiff in one or more of the following acts or omissions:
a. By negligently failing procure life insurance policies that would be fully funded by financing such that Plaintiff would not incur any out of pocket costs;

b. By negligently failing to procure funding in a manner such that the Plaintiff would not incur any out of pocket costs;

c. By negligently failing to make the appropriate arrangements for one or more of the policies to be sold;

d. By negligently advising the Plaintiff to take on additional loans in order to pay the premiums on the life insurance policies;

e. By negligently recommending to Plaintiff that the life insurance policies could be sold on the secondary market;

f. By negligently failing to advise Plaintiff that the life insurance policies had no value on the secondary market;

g. By failing to investigate and evaluate the feasibility of the life settlement scheme;

h. By negligently recommending that Plaintiff utilize the service of the other Defendants, including, but not limited to Richard Biondi;

i. By negligently failing to properly advise the Plaintiff of the risks associated with the proposed purchase and sale of life insurance;

j. By negligently failing to discover or disclose conflicts of interest of the other Defendants that this Defendant associated with and/or recommended;

k. By negligently preparing an application for life insurance on behalf of the Plaintiff that contained inaccuracies and omissions;

1. By negligently advising Plaintiff of the status of proposed sale of the life insurance policies;

m. By negligently failing to disclose to Plaintiff the financial incentives of each of the Defendants involved in this transaction;

n. By negligently allowing the life insurance policies to lapse.

55. As a direct and proximate result of the foregoing acts and omissions, Plaintiff has suffered damage in the form money spent to make premium payments, incurring debts to make premium payments, being deprived of the benefits of that life insurance coverage promised, and suffering other consequential damages and, therefore, have suffered monetary damages exceeding $50,000.

WHEREFORE, Plaintiff prays that this Court enter judgment in favor of Plaintiff and against Defendants in an amount in excess of $50,000 plus costs and attorneys fees, together with such other relief as this Court deems just.

COUNT 12 - VIOLATION OF THE ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT

Potomac Insurance Marketing Group, Inc. and Crump Life Insurance Services, Inc.

1-51 Plaintiff adopts and realleges Paragraphs 1 through 51 of the Facts Common to All Counts as though fully set forth herein.

52. It was the duty of Potomac and Crump to exercise reasonable skill and care in the transaction of the business entrusted to him by Plaintiff, to wit, to exercise reasonable skill and care in informing Plaintiff of the terms, conditions, premium outlays, death benefits, risks, suitability, potential adverse consequences, and duration of coverage, and to procure the life insurance policies promised and recommended to Plaintiff and procured by Defendants on behalf of and for the benefit of the Plaintiff.

53. Potomac and Crump breached their duty to Plaintiff in one or more of the following acts or omissions:
a. By negligently misrepresenting that he would procure life insurance policies that would be fully funded by financing such that Plaintiff would not incur any out of pocket costs;

b. By negligently failing to advise Plaintiff, that the insurance policies procured had little or no value on the secondary market and therefore, were unlikely to ever be sold;

c. By negligently misrepresenting through conversations that Plaintiff would be refunded all premium payments made by Plaintiff;

d. By negligently misrepresenting that arrangements would be made for one or more of the policies to be sold.

54. The representations made by Potomac and Crump to the Plaintiff were for the purpose of inducing the Plaintiff to allow Defendants to procure life insurance policies such that Defendants could earn commissions.

55. Potomac and Crump knew or should have known that the representations were designed, in part, to assure Plaintiff that he would not be required to pay any money out of pocket.

56. In making the representations, Potomac and Crump intended that the Plaintiff rely on the representations.

57. Plaintiff heard and relied on the representations made by Potomac and Crump.

58. At all relevant times, there has been in effect in the State of Illinois a certain statute known as the Illinois Consumer Fraud and Deceptive Business Practices Act, set forth at 815 ILCS 505/2, which provides, in pertinent part, as follows:

> "Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of such material fact with intent that others rely upon the concealment, suppression or omission of such material fact... in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby... ."

59. By making the above representations, Potomac and Crump violated the Illinois Consumer Fraud and Deceptive Practices Act.

60. At all relevant times, it was reasonably foreseeable that Plaintiff would rely on the representations set forth above in deciding to purchase life insurance.

61. Plaintiff relied on the representations made by Potomac and Crump and these representations induced the Plaintiff to purchase life insurance policies.

62. The above-stated misrepresentations and omissions were material facts and had Plaintiff been aware of such facts, he would not have purchased life insurance policies and would not have obligated himself to pay large sums of money to pay for life insurance policy premiums.

63. As a direct and proximate result of the foregoing acts and omissions, Plaintiff has suffered damage in the form money spent to make premium payments, incurring debts to make premium payments, being deprived of the benefits of that life insurance coverage promised, and suffering other consequential damages and, therefore, have suffered monetary damages exceeding $50,000.

WHEREFORE, Plaintiff prays that this Court enter judgment in favor of Plaintiff and against Defendants in an amount in excess of $50,000 plus costs and attorney's fees, together with such other relief as this Court deems just.

/s/ Nicholas A. Caputo

Attorney for Plaintiff

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